

July 1, 1998

**OFFICE OF THE HEARING EXAMINER**  
**KING COUNTY, WASHINGTON**

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**SUPPLEMENTAL REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL**

**SUBJECT:** King County Department of Transportation File No. **V-2173**  
Proposed Ordinance No. **98-103**

**B. J. THOMAS AND OTHERS**  
Proposed Road Vacation

Location: Portion of 106th Avenue SE, north of SE 188th Court if extended

Petitioners: B.J. & Kerry Thomas, Robin J. & Vicki Elliott,  
Paul E. Witt, and Vicki Dallosto, et al.

**SUMMARY OF RECOMMENDATIONS:**

Division's Preliminary:	Approve
Division's Final:	Approve as modified
Examiner:	Approve as modified

**PRELIMINARY REPORT:**

The Department of Transportation's Preliminary Report on Item No. V-2173 was received by the Examiner on October 11, 1995.

**PUBLIC HEARING:**

After reviewing the Department's Report and examining available information on file with the application, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2173 was opened by the Examiner at 9:21 a.m., October 4, 1995, in Room No. 2866, Jackson Federal Building, 915 Second Avenue, Seattle, Washington, and adjourned at 9:42 a.m. The hearing was continued for administrative purposes for not longer than six months to enable petitioners to submit one or more appraisals of the property to be vacated. On April 11, 1996, the Hearing Examiner received a memorandum from the Road Services Division that petitioners Elliott and Dallosto had withdrawn their request for vacation. On April 24, 1996, the petitioner Witt advised the

Hearing Examiner that he had decided not to submit any appraisals and agrees to the assessed value set by the County for the property to be vacated adjacent to Lot 12. On May 1, 1996, the Hearing Examiner declared the public hearing to be closed, and on May 9, 1996, a Report and Recommendation to the King County Council was issued.

Following issuance of the May 9 Report, the Hearing Examiner was advised by Petitioner Witt and the Road Services Division of errors contained therein. On May 29, 1996, the hearing record was re-opened for administrative purposes, and on June 14, 1996, the record was closed. A revised report and recommendation was issued by the Hearing Examiner on June 28, 1996. On July 22, 1996, the King County Council passed Ordinance 12397, granting this petition as recommended by the Examiner.

Having been informed that an incorrect legal description of the property vacated was attached to Ordinance 12397, a notice of reopened hearing was sent to all parties and interested persons on February 13, 1998. On March 11, 1998 at 9:30 a.m. the hearing on this petition was re-opened, and was continued for administrative purposes. On June 19, 1998 the Examiner declared the public hearing to be closed.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location: Portion of 106th Avenue SE, north of SE 188th Court if extended  
Right of way classification: C  
Area: 718 square feet  
Compensation: \$2,444.79

2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's Report to the King County Hearing Examiner for the October 4, 1995, public hearing and the statement of facts contained in Proposed Ordinance No. 98-103. The said report and proposed ordinance will be attached to the copies of this report and recommendation submitted to the King County Council.
3. Petitioners Thomas, Elliott and Dallosto have withdrawn from this proceeding. Petitioner Witt has deposited with King County funds required for payment of compensation for the 10 feet of right-of-way adjacent to Lot 12 of the Plat of Cougar Meadows. The remaining 40 feet of right-of-way for 106th Avenue SE, lying between Lot 12 of Cougar Meadows and Lot 7 of Panther Lake Garden Tracts, will not be affected by this vacation.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.

CONCLUSIONS:

1. The westerly ten feet of the road adjacent to the east of Lot 12 of the plat of Cougar Meadows is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of the westerly ten feet of this road adjacent to Lot 12 of the plat of Cougar Meadows has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

RECOMMENDATION:

APPROVE proposed Ordinance no. 98-103, to vacate the right-of-way described as:

The westerly 10 feet of 106th Avenue Southeast dedicated in the plat of Cougar Meadows, Volume 161, pages 47-51, records of King County, lying easterly of Lot 12 of said plat.

RECOMMENDED this 1<sup>st</sup> day of July, 1998.

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James N. O'Connor  
King County Hearing Examiner

TRANSMITTED this 1<sup>st</sup> day of July, 1998, to the parties and interested persons shown on Attachment 3.

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before **July 15, 1998**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before **July 22, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing

date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting this recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE OCTOBER 4, 1995, PUBLIC HEARING ON KING COUNTY DEPARTMENT OF TRANSPORTATION FILE NO. V-2173, B.J. THOMAS AND OTHERS, PETITION FOR ROAD VACATION.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Dennis Gorley, Robin Elliott, and Paul Witt.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Petition transmittal letter, dated April 22, 1994, from Department of Public Works to Clerk of the Council
Exhibit No. 2	Letter, dated April 18, 1994, from B.J. Thomas (petitioner) to Department of Public Works
Exhibit No. 3	Petition for vacation of portion of 106th Avenue Southeast, with legal description attached
Exhibit No. 4	Copy of deposit check, dated April 18, 1994, from B.J. Thomas
Exhibit No. 5	Map depicting vacation area
Exhibit No. 6	Map of area surrounding road vacation location
Exhibit No. 7	Copy of Panther Lake Garden tracts with legal description and plat dedication
Exhibit No. 8	Response letter, dated April 17, 1994, from Puget Power to Department of Public Works
Exhibit No. 9	Response letter, dated June 24, 1994, from Washington Natural Gas to Dept. of Public Works
Exhibit No. 10	U.S. West Communications response, dated May 12, 1994
Exhibit No. 11	Response letter, dated September 12, 1994, from Soos Creek Water & Sewer District to Department of Public Works
Exhibit No. 12	Response letter, dated May 11, 1994, from METRO to Department of Public Works
Exhibit No. 13	Response memo, dated June 2, 1994, from King County Dept. of Development & Environmental Services, Land Use Services Division to Department of Public Works
Exhibit No. 14	King County Property Services Division response, dated May 5, 1994
Exhibit No. 15	King County Traffic & Planning response, dated July 22, 1994
Exhibit No. 16	King County Traffic & Planning response, dated March 1, 1995
Exhibit No. 17	King County Transportation Planning response, dated March 7, 1995
Exhibit No. 18	King County Road Maintenance Section response, dated May 17, 1994
Exhibit No. 19	Copy of King County Public Works road log, illustrating the end of the County maintained area, dated September 19, 1995
Exhibit No. 20	King County Parks Division response, dated May 10, 1994
Exhibit No. 21	King County Office of Open Space response, dated May 24, 1994

Exhibit No. 22	King County Historical Preservations response, dated May 12, 1994
Exhibit No. 23	Letter, dated April 27, 1995, from Department of Public Works, Division of Roads & Engineering to Clerk of the Council
Exhibit No. 24	Letter, dated May 8, 1995, from Roads Division to Mr. Paul Witt (petitioner), identifying amount of compensation/with enclosures
Exhibit No. 25	Letter, dated May 8, 1995, from Roads Division to Mr. Robin Elliott (petitioner), identifying amount of compensation/with enclosures
Exhibit No. 26	Road vacation worksheet V2173.XLS. dated April 6, 1994, and revised May 2, 1995
Exhibit No. 27	King County Cash Transmittal & Receipt, dated August 4, 1995
Exhibit No. 27A	Copy of road vacation compensation check, dated July 24, 1995, from Paul E. Witt to King County Office of Finance, in the amount of \$2,444.79
Exhibit No. 27B	Copy of road vacation compensation check, dated July 21, 1995, from Robin J. Elliott to King County Office of Finance, in the amount of \$2,373.74
Exhibit No. 28	Letter, dated September 1, 1995, from King County Executive to Councilmember Kent Pullen
Exhibit No. 29	copy of proposed Ordinance No. 95-611
Exhibit No. 30	King County Department of Public Works Affidavit of Posting, dated September 8, 1995
Exhibit No. 31	King County Department of Public Works Notice of Hearing, dated September 8, 1995
Exhibit No. 32	Copy of King County Code section 14.40, Road Vacation/with portions highlighted
Exhibit No. 33	King County Real Property Assessment, account number 177830-0120-0, taxpayer: Paul E. Witt, dated March 30, 1995
Exhibit No. 34	King County Real Property Assessment, account number 177830-0110-0, taxpayer: Robin J. Elliott, dated March 30, 1995
Exhibit No. 35	King County Real Property Assessment, account number 662340-0072-0, taxpayer: B.J. Thomas, dated March 30, 1995

Entered April 30, 1996 pursuant to administrative continuance:

Exhibit No. 36	Letter to Hearing Examiner from Paul E. Witt, petitioner, dated April 24, 1996
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Entered June 13, 1996, pursuant to May 29, 1996 Notice of Re-opened Hearing:

Exhibit No. 37	April 4, 1996 memo to Hearing Examiner from Lydia Reynolds, Road Services Div
Exhibit No. 38	May 10, 1996 letter to Hearing Examiner from Paul E. Witt
Exhibit No. 39	May 20, 1996 memo to Hearing Examiner from Lydia Reynolds
Exhibit No. 40	May 30, 1996 letter to Hearing Examiner from Paul E. Witt

Entered March 11, 1998

Exhibit No. 41	Affidavit of Posting
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Entered June 19, 1998, pursuant to administrative continuance:

Exhibit No. 42	Affidavit of Publication
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